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Our Ref.: 829-522 **OFFICE OF PETITIONS**
Your Ref.: USSN 09/373,544 Date: January 24, 2005To: Ms. Karen Creasy
Firm: USPTO
Facsimile No.: 571-273-0025
From: H. Warren Burnam, Jr., Reg. No. 29,366Number of Pages (including cover sheet): 30(IF YOU DO NOT RECEIVE ALL OF THE PAGES OR ENCOUNTER DIFFICULTIES IN TRANSMISSION,
PLEASE CONTACT US IMMEDIATELY AT (703-816-4000).Linda Hull
FACSIMILE OPERATOR**ATTACHMENT/S:****MESSAGE:**I hereby certify that the following documents are being facsimile transmitted for
official filing to the Patent and Trademark Office on January 24, 2005, and specifically
to 703-305-9285

Petition Under 37 CFR 1.313 to Withdraw From Issue

with Exhibit 1 (claims as filed);

Exhibit 2 (Amendment filed April 22, 2002);

Exhibit 3 (Office Action dated October 13, 2004 in divisional application

10/702,642); and

Amendment Accompanying Petition.

H. Warren Burnam, Jr.
H. Warren Burnam, Jr.

Reg. 29, 366

January 24, 2005

date

No. of pages transmitted: 29 pages**CONFIDENTIALITY NOTE**The documents accompanying this facsimile transmission contain information belonging to Nixon & Vanderhye, which is
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Allowed: April 27, 2004

NAKATSU et al

Atty. Ref.: 829-522; Confirmation No. 2693

Appl. No. 09/373,544

Group: 2811

Filed: August 13, 1999

Examiner: Donghee Kang.

For: SEMICONDUCTOR LIGHT-EMITTING DIODE

* * * * *

January 24, 2005

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JAN 25 2005

OFFICE OF PETITIONS**Office of Petitions -- ATTENTION: MS. CREASY**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

PETITION UNDER 37 CFR 1.313 TO**WITHDRAW FROM ISSUE**

In accordance with 37 CFR §313(c)(1), it is respectfully requested that the captioned application be withdrawn from issue.

FACTS

1. As a result of the typographical error in independent claim 1, the intended phrase "[011] direction" incorrectly reads "[110] direction".
2. Original dependent claim 2 correctly referred to the [011] direction. See, Petition Exhibit 1 (copy of original claims), attached.

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3. In amending independent claim 1 to include limitations of dependent claim 2 in independent claim 1, the typographical error was introduced, inadvertently transposing the original phrase "[011] direction" to "[110] direction". *See*, Petition Exhibit 2 (copy of Amendment filed April 22, 2002), attached.
4. Prosecution continued through allowance and payment of the issue fee with independent claim 1 containing the unnoticed typographical error.
5. The typographical error was first noted by the same Examiner in other claims in a continuation application SN 10/702,642.
6. In continuation application SN 10/702,642, the same Examiner issued a rejection under 35 USC §112, first paragraph, alleging that the specification discloses only the [001] direction, not the [110] direction. In continuing with the office action in the continuation application the Examiner clearly understood and correctly interpreted the claim to be directed to the [011] direction. *See*, Petition Exhibit 3 (copy of Office Action mailed October 13, 2004 for SN 10/702,642), attached.
7. The typographical error in allowed independent claim 1 of the captioned application renders independent claim 1 rejectable and thus unpatentable under 35 USC §112, first paragraph, in like manner as claims of the continuation application.
8. The accompanying amendment obviates the rejection and renders patentable the claims of the captioned application.

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RELIEF REQUESTED


It is respectfully requested that the captioned application be withdrawn from issue, the accompanying amendment entered, and another notice of allowance be mailed.

The Commissioner is authorized to charge the undersigned's deposit account #14-1140 in whatever amount is necessary for entry of these papers and the continued pendency of the captioned application, including the fee of 37 CFR §1.17(h).

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____


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Attachments:

- Exhibit 1. copy of original claims
 - Exhibit 2. copy of Amendment filed April 22, 2002.
 - Exhibit 3. copy of Office Action mailed October 13, 2004 for SN 10/702,642
- AMENDMENT ACCOMPANYING PETITION UNDER 37 CFR 1.313